

Appl. No. 09/760,037
Atty. Docket No. 7914M
Amdt. dated 01/09/2004
Reply to Office Action of 09/09/2003
Customer No. 27752

REMARKS

Claims 1-9, 11-19 and 22-41 are pending in the present application. No additional claims fee is believed to be due.

Claims 3, 11-13, 39 and 40 are canceled without prejudice.

Claims 1, 2, 4-6, 14, 38 and 41 have been amended to particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. Support for the amendment is found throughout the specification and claims, as originally filed.

Claim 19 has been amended to correct a typographical mistake regarding the term "wherein". Support for this amendment is found throughout the specification and claims, as originally filed.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection under 35 USC 112, Second Paragraph

The Office Action states that claim 11 is rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Specifically, the Office Action states that the compounds of claim 1 cannot comprise the formula recited by claim 11. The Applicants respectfully direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have directed the cancellation of claim 11, without prejudice. In light of the present amendments, the Applicants respectfully request reconsideration and withdrawal of the present rejection of claim 11 under 35 USC 112, second paragraph.

Rejection under 35 USC 102(b) over Lonza Ltd

The Office Action states that claims 2-6, 12, 31-33 and 35-37 are rejected under 35 USC 102(b) as being anticipated by Lonza Ltd (hereinafter "Lonza"). Specifically, the Office Action states that Lonza teaches a composition for keeping flowers fresh comprising glucose and succinate as an energy source, quaternary ammonium (myristyl dimethyl benzyl ammonium chloride dihydrate, didecyl dimethyl ammonium chloride, a mixture 50% of octyl decyl dimethyl ammonium chloride, 25% dioctyl dimethyl ammonium chloride and 25% didecyl dimethyl

Appl. No. 09/760,037
Atty. Docket No. 7914M
Amdt. dated 01/09/2004
Reply to Office Action of 09/09/2003
Customer No. 27752

ammonium chloride) as fungicide, succinic acid and citric acid as a buffer, and additional ingredients. See Paper No. 7; page 2.

The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claim 2, from which claims 4-6 ultimately depend, by incorporating therein the subject matter of claims 3 and 13, which have now been cancelled without prejudice. The Applicants have further directed the cancellation of claim 12, without prejudice. Moreover, the Applicants have amended claim 31, from which claims 32, 33 and 35-37 ultimately depend, by incorporating therein a recitation of the specific composition of the buffer. In light of the present amendments, the Applicants submit that Lonza fails to disclose each and every element of the claimed invention, and specifically a composition for controlling plant and flower moisture transpiration comprising a source of energy; one or more antimicrobials; a buffer comprising citric acid and sodium citrate; and the balance carriers and adjunct ingredients. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 2-6, 31-33 and 35-37 under 35 USC 102(b) over Lonza.

Rejection under 35 USC 103(a) over Lonza in view of Doi et al. in view of Frossard et al.

The Office Action states that claims 2, 12-18, 31 and 34 are rejected under 35 USC 103(a) has being unpatentable over Lonza in view of Doi et al. (hereinafter "Doi") in view of Frossard et al. (hereinafter "Frossard"). Specifically, the Office Action asserts that it would have been obvious to modify the method of Lonza by including the sucrose disclosed by Doi. See Paper No. 7; page 3. The Office Action states that it would have been obvious to modify this sucrose-comprising composition via the use of the citric acid buffer disclosed by Frossard. See Paper No. 7; pages 3-4.

The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claim 2, from which claims 12-18 ultimately depend, by reciting the specific composition of the claimed buffer and the specific groups from which the claimed source of energy is selected. The Applicants have further cancelled claims 3, 12 and 13, without prejudice, in favor of incorporation of the subject matter of cancelled claims 3 and 13 into amended claim 2. Support for this amendment is found throughout the specification and in claims 3 and 13, as originally filed. The Applicants have further amended claim 31, from which claim 34 ultimately depends, to recite the specific composition of the claimed buffer and the specific groups from which the claimed source of energy is selected. Support for this amendment is found throughout the specification and claims, as originally filed. In light of the present amendments, the Applicants respectfully submit that Lonza in view of Doi

Appl. No. 09/760,037
Atty. Docket No. 7914M
Amdt. dated 01/09/2004
Reply to Office Action of 09/09/2003
Customer No. 27752

in view of Frossard fail to teach or suggest each and every element of the present invention, as amended. Specifically, the applied references neither teach nor suggest a composition for controlling plant and flower moisture transpiration comprising a source of energy selected from saccharide, oligosaccharide, polysaccharide, or mixtures thereof; one or more antimicrobials; a buffer comprising citric acid and sodium citrate; and the balance carriers and adjunct ingredients. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 2, 12-18, 31 and 34 under 35 USC 103(a) over Lonza in view of Doi in view of Frossard.

Rejection Under 35 USC 103(a) over Lonza in view of Law

The Office Action states that claims 1, 7-9, 19, 31 and 38-41 are rejected under 35 USC 103(a) as being unpatentable over Lonza in view of Law. Specifically, the Office Action states that it would have been obvious to modify the method of Lonza by adding the isothiazolone antimicrobials of Law to the quaternary ammonium compounds to increase flower survival. See Paper No. 7; page 4.

The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claim 1, from which claims 7-9 ultimately depend, by incorporating the specific formula from which the claimed antimicrobial is selected. Support for this amendment is found in claim 11, as originally filed. The Applicants have further cancelled claim 11, without prejudice, in favor of incorporation of the subject matter disclosed therein, into amended claim 1. The Applicants have further amended claims 19, 31, 38 and 41 to recite that the buffer disclosed therein comprises citric acid and sodium citrate. Support for this amendment is found in throughout the specification and in claims 13 and 40, as originally filed. The Applicants have further cancelled claims 39 and 40, without prejudice. In light of the present amendments, the Applicants respectfully submit that Lonza in view of Law neither teach nor suggest each and every element of the present invention, as amended. Specifically, the Applicants submit that Lonza in view of Law fail to teach or suggest a composition for controlling plant and flower moisture transpiration comprising a source of energy; one or more antimicrobials; a buffer comprising citric acid and sodium citrate; and the balance carriers and adjunct ingredients. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 1, 7-9, 19, 31 and 38-41 under 35 USC 103(a) over Lonza in view of Law.

Rejection under 35 USC 103(a) over Lonza in view of Law in further view of Longley and Frossard

Appl. No. 09/760,037
Atty. Docket No. 7914M
Amdt. dated 01/09/2004
Reply to Office Action of 09/09/2003
Customer No. 27752

The Office Action states that claims 22, 23 and 25-30 are rejected under 35 USC 103(a) as being unpatentable over Lonza in view of Law as applied to claims 1, 19-21, 31 and 38-41 above, and further in view of Longley and Frossard. Specifically, the Office Action states that it would have been obvious to a person of ordinary skill in the art to modify the method of Lonza in view of Law by adding 1,2-benzisothiazolin-3-one antimicrobial to the quaternary compounds and to maintain a low pH, the motivation for which is purportedly provided by Lonza's suggestion to include fungicide and with the knowledge that 1,2-benzisothiazolin-3-one is fungicide safe to use on plants as taught by Longley and that a low pH is not favorable to bacterial development as taught by Frossard. See Paper No. 7; page 5.

The Applicants respectfully direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claim 19, from which rejected claims 22, 23 and 25-30 ultimately depend, to recite the specific composition of the claimed buffer. Namely, the Applicants have amended claim 19 to recite that the buffer of the composition disclosed therein comprises citric acid and sodium citrate. In light of the present amendment, the Applicants respectfully submit that Lonza in view of Law in view of Longley in further view of Frossard neither teach nor suggest a composition for controlling plant and flower moisture transpiration comprising a source of energy; one or more antimicrobials; a buffer comprising citric acid and sodium citrate; and the balance carriers and adjunct ingredients. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 22, 23 and 25-30 under 35 USC 103(a) over Lonza in view of Law in view of Longley in further view of Frossard.

Rejection under 35 USC 103(a) over Lonza in view of Law, Longley and Frossard in further view of Philosoph-Hadas et al

The Office Action further states that claim 24 is rejected under 35 USC 103(a) as being unpatentable over Lonza in view of Law, Longley and Frossard as applied to claims 22, 23 and 25-30 above, in further view of Philosoph-Hadas et al (hereinafter "Philosoph-Hadas"). Specifically, the Office Action states it would have been obvious to modify the method of Lonza in view of Law, Longley and Frossard by adding the calcium sequestrant of Philosoph-Hadas to the medium, the motivation for which is provided by Philosoph-Hadas' disclosure of the use of calcium sequestrant to control the bending of the stem of cut flowers.

The Applicants respectfully direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended . Namely, the Applicants have amended claim 19, from which claim 24 ultimately depends, to recite that the buffer of the

Appl. No. 09/760,037
Atty. Docket No. 7914M
Amdt. dated 01/09/2004
Reply to Office Action of 09/09/2003
Customer No. 27752

composition disclosed therein comprises citric acid and sodium citrate. In light of the present amendment, the Applicants respectfully submit that Lonza in view of Law, Longley and Frossard in further view of Philosoph-Hadas neither teach nor suggest a composition for controlling plant and flower moisture transpiration comprising a source of energy; one or more antimicrobials; a buffer comprising citric acid and sodium citrate; and the balance carriers and adjunct ingredients. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claim 24 under 35 USC 103(a) over Lonza in view of Law, Longley and Frossard, in further view of Philosoph-Hadas.

Conclusion

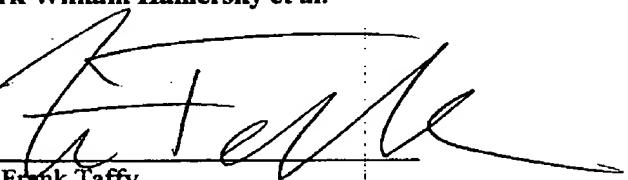
In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections 35 USC 112, 102 and 103. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of claims 1, 2, 4-9, 14-19, 22-38 and 41.

Respectfully submitted,

Mark William Hamersky et al.

By


Frank Taffy
Attorney for Applicants
Registration No. 52,270
(513) 634-9315

January 09, 2004
Customer No. 27752